

## **REMARKS**

### **A. Introduction**

Claims 1-18 were presented for examination.

Claims 1-18 were rejected.

Claims 1-17 are amended.

### **B. Claim Rejections Under 35 U.S.C. § 102**

Examiner continued the rejection of Claims 1, 16 and 18 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,458,388 to Genis et al (Genis). In a telephone interview with Examiner on January 27, 2005, Examiner told the undersigned attorney that the Genis patent would be removed as a reference if Claim 1 and all dependent claims therefrom were amended to clarify the non-aqueous or anhydrous nature of the present composition. Pending Claims 1-17 have been amended to clarify this novel feature of the present invention. In light of these amendments, Claims 1, 16 and 18 should be allowable. An affidavit under Rule 132 has been provided to confirm the clear distinction between aqueous and non-aqueous compositions in this field. Furthermore, the inventors have provided experimental data for their experiments in this area.

### **C. Claim Rejections Under 35 U.S.C. § 103**

Examiner continued the rejection of Claims 11, 12, 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,458,388 to Genis et al (Genis) in view of EP 1074245 (EP '245). In addition, Examiner continued the rejection of Claims 2-10, 13, and 17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,458,388 to Genis et al (Genis) and EP 1074245 (EP '245) in view of U.S. Patent No. 5,997,889 to Durr (Durr).

As noted concerning the Section 102 claim rejections, appropriate amendments were made to the claims as recommended by the Examiner to remove Genis as a reference against the claims of the present invention. Furthermore, in the telephone interview with the Examiner on January 27, 2005, Examiner told the undersigned attorney that the EP '245 patent would be removed as a referenced if it was clarified that the 50% of Dead Sea minerals was by weight of the total composition. Therefore, appropriate amendments have been made to Claim 1. These amendments apply to each of the dependent claims as well. In light of these amendments, Claims 1-18 should be allowable.

### **Conclusion**

In view of the above, the Applicant submits that Claims 1-18 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections. Allowance of Claims 1-18 at an early date is solicited.

If the Examiner still finds impediments to allowance of Claims 1-18 and, in the opinion of the Examiner, a telephone conference between the undersigned and the Examiner would help remove such impediments, the undersigned respectfully requests such a telephone conference.

Respectfully submitted,

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# HARRY'S COSMETICOLOGY

Martin M. Rieger, Ph.D.  
Editor-in-Chief

8<sup>th</sup>

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Eighth Edition

Edited by Martin M. Rieger, Ph.D.



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Made in the United States of America

INGREDIENT	Date: 01.03.01 Experiment 01	Date: 01.04.01 Experiment 02	Date: 01.05.01 Experiment 03	Date: 01.08.01 Experiment 04	Date: 01.09.01 Experiment 05
	%	%	%	%	%
Ultra Fine Dead Sea Minerals*	30.0	40.0	45.0	50.0	55.0
Palm oil	25.0	29.0	25.0	25.0	21.0
Soy Bean oil	17.0	12	14	10	9.0
Olive oil	14.0	6.0	5.0	5.0	5.0
Jojoba oil	5.0	3.5	3.0	3.0	3.0
Beeswax	5.0	4.5	4.0	3.0	3.0
Jojoba wax Peg 120	1.0	1.0	1.0	1.0	1.0
Cashew husk oil ethoxylate	1.0	1.0	1.0	1.0	1.0
Coconut oil	1.0	1.0	1.0	1.0	1.0
Vitamin E oil (d alpha tocopherols)	.10	.10	.10	.10	.10
Vitamin E oil (mixed tocopherols)	.05	.05	.05	.05	.05
Rosewood oil	.34	.39	.44	.44	.44
Lavender oil	.24	.29	.34	.34	.34
Chamomile oil	.30	.20	.20	.20	.20
Calendula oil	.12	.12	.02	.02	.02
<b>RESULTS</b> <b>Note:</b> Experiments conducted under optimal laboratory conditions utilizing state of the art equipment. This first formula intended for use as scrubs. Utilizing even finer version of processed Ultra Fine Dead Sea Minerals will produce exceptional ointments. Unlimited products can be made accordingly. Previous experiments conducted with native Dead Sea Minerals (un-processed) yielded sub par & unacceptable results. <b>Conclusion:</b> Native Dead Sea Minerals must be processed into Ultra Fine and extra Ultra Fine granularities of 100% less than 1mm*, in order for formulation to remain in suspension and achieve maximum benefit for consumer as intended with proper feel and effectiveness.	Oily feel. Nice scent. Unacceptable appearance. Questionable suspension. Immediate effect on skin is not as intended. Significant unpleasant feel after use.	Oily feel. Improved scent. Unacceptable appearance. Questionable suspension. Immediate effect on skin is not as intended. Significant unpleasant feel after use.	Decent feel, Excellent scent. Slight separation in suspension. Slight over thick. Immediate effect on skin is not as intended with oily residue feel. Increase salts to target level 50 % next.	Decent feel. Excellent scent. Remains in suspension with slight separation. Near ideal thickness. Immediate effect on skin is near intended with very slight residue feel.	Unacceptable feel. Excellent scent. Remains in suspension with no separation but OVER thick w/too much salts for feel. Immediate effect on skin is not as intended. Lower salts level 4 % in next test to end.

INGREDIENT	Date: 01.12.01 Experiment 06	Date: 01.15.01 Experiment 07	Date: 01.16.01 Experiment 08	Date: 01.17.01 Experiment 09	Date: 01.18.01 Experiment 10
	%	%	%	%	%
Ultra Fine Dead Sea Minerals*	51.0	51.0	51.0	51.0	51.0
Palm oil	25.0	25.0	25.0	25.0	25.0
Soy Bean oil	6.0	6.5	8.0	8.5	9.0
Olive oil	6.0	6.0	5.0	5.0	5.0
Jojoba oil	3.0	3.0	3.0	3.0	3.0
Beeswax	5.0	4.5	4.0	3.5	3.0
Jojoba wax Peg 120	1.0	1.0	1.0	1.0	1.0
Cashew husk oil ethoxylate	1.0	1.0	1.0	1.0	1.0
Coconut oil	1.0	1.0	1.0	1.0	1.0
Vitamin E oil (d alpha tocopherols)	.10	.10	.10	.10	.10
Vitamin E oil (mixed tocopherols)	.05	.05	.05	.05	.05
Rosewood oil	.44	.44	.44	.44	.44
Lavender oil	.34	.34	.34	.34	.34
Chamomile oil	.20	.20	.20	.20	.20
Calendula oil	.02	.02	.02	.02	.02
<b>RESULTS</b> <b>Note:</b> Experiments conducted under optimal laboratory conditions utilizing state of the art equipment. This first formula intended for use as scrubs. Utilizing even finer version of processed Ultra Fine Dead Sea Minerals will produce exceptional ointments. Unlimited products can be made accordingly. Previous experiments conducted with native Dead Sea Minerals (un-processed) yielded sub par & unacceptable results. <b>Conclusion:</b> Native Dead Sea Minerals must be processed into Ultra Fine and extra Ultra Fine granularities of 100% less than 1mm*, in order for formulation to remain in suspension and achieve maximum benefit for consumer as intended with proper feel and effectiveness.	Decent feel. Excellent scent and appearance. Remains in suspension with no separation. Slight over thick. Immediate effect on skin is almost as intended with slight residue.	Decent feel. Excellent scent and appearance. Remains in suspension with no separation. Slight over thick. Immediate effect on skin is as intended with slight residue.	Excellent feel, scent and appearance. Remains in suspension with no separation. Slight over thick. Immediate effect on skin is as intended with very slight residue.	Excellent feel, scent and appearance. Remains in suspension with no separation. Ideal thickness. Immediate effect on skin is as intended. No residue. FINAL & BEST FOR PRODUCTION.	Excellent feel, scent and appearance. Remains in suspension with no separation. Ideal thickness. Immediate effect on skin is as intended. No residue. FINAL & BEST FOR PRODUCTION.